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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND
OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by Human Rights Watch, a non-governmental
organization in consultative status (category II)

The Secretary-General has received the following written statement
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[28 December 1994]

The human rights situation in the Republic of Bosnia and Herzegovina

Statement of the problem

1. Civilians are the targets of the war in Bosnia and Herzegovina. Each party has perpetrated abuses against minorities in areas under their control, but the overwhelming majority continue to be perpetrated by Bosnian Serb forces. Most of these abuses are associated with "ethnic cleansing", whose main objective is the removal of an ethnic group from a given area through murder, population exchanges, forced displacement and terrorization.
2. Non-Serbs in northern Bosnia continue to be "cleansed" from their homes by Bosnian Serb authorities. More than 10,000 non-Serbs - primarily Muslims - were expelled from Serb-held areas of northern Bosnia in less than three months this summer and more are still fleeing or are being deported to Croatia and areas controlled by the Government. Those who remain are forced to labour in work gangs for Bosnian Serb officials, often along front lines. Others are terrorized, raped and beaten with impunity; still others are arrested arbitrarily and interned.

3. In the past year, Bosnian Serb forces have shelled the United Nations-declared safe areas of Tuzla, Sarajevo, Bihac and Gorazde and prevented aid convoys from reaching these areas and the two remaining safe areas, Zepa and Srebrenica. Bosnian Serb officials have effectively held United Nations soldiers hostage, have attacked NATO planes and have obstructed the humanitarian work of the United Nations Protection Force (UNPROFOR).

4. In 1993, Bosnian Croat and the mostly Muslim forces of the Government of Bosnia and Herzegovina fought and perpetrated abuses against one another. The abuses perpetrated by Bosnian Croat officials in the Mostar and Capljina areas were systematic and severe during this time. Government forces and Muslim paramilitary groups also committed abuses during this time against both Croats and Serbs, including the summary execution of civilians and disarmed combatants and mistreatment in detention.

5. In February 1994, Bosnian Croats and the mostly Muslim Bosnian Government reconciled their differences and agreed to form a federation, whose governing structures incorporate mechanisms designed to monitor and protect human rights, including a human rights court and an ombudsman. However, the federation's Government - and its human rights mechanisms - have not begun functioning due to continuing mistrust between Muslims and Croats in some areas, particularly around Mostar. Those displaced during the Muslim-Croat conflict have not been repatriated and human rights abuses continue in some areas, primarily in the Croat-held section of Mostar.

International humanitarian law

6. An elaborate legal regime governs the use of force affecting non-combatants and protects such persons from human rights abuses in times of war. International humanitarian law (the laws of war) - the Geneva Conventions of 1949 and the Protocols Additional to the Geneva Conventions - prohibit attacks against civilians and regulate the treatment of "protected persons" (i.e. civilians and prisoners of war) in territory controlled by a party to a conflict. The 1907 Hague Convention (IV) respecting the laws and customs of war on land and the Regulations annexed thereto regulates the conduct of hostilities and have passed into customary international law. Crimes against humanity were defined by the International Criminal Tribunal and Nürnberg and forbidden thereafter. The Convention on the Prevention and Punishment of the Crime of Genocide forbids the commission, attempt, incitement to and complicity in genocide.

Human Rights Watch/Helsinki's experience and findings

7. Human Rights Watch/Helsinki has been monitoring violations of international law by all parties to the conflict since the beginning of the war in Bosnia and Herzegovina in April 1992. We have had a constant presence in the field and have collected hundreds of testimonies from victims of, and witnesses to, human rights abuses. We have published two books containing our findings and issued shorter reports and letters reporting abuses by Government and Bosnian Serb and Bosnian Croat authorities.

8. Despite the vast body of international law forbidding such acts, war crimes and crimes against humanity have been committed on a massive scale in

Bosnia and Herzegovina. Moreover, the systematic and prolonged manner in which the policy of "ethnic cleansing" has been conducted in Bosnian Serb-held territory would qualify it as genocide, in that Bosnian Serb authorities "committed with intent to destroy, in whole or in part" non-Serbian ethnic groups by "killing members of the group, ... causing serious bodily or mental harm to members of the group ... [and] deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part". Despite international condemnation, Bosnian Serb forces have not ceased or made an effort to curb abuses against non-Serbs living in territory under their control. Murders, rapes, mistreatment in detention, forced labour along front lines, arbitrary arrest, deportations and institutionalized discrimination against non-Serbs remaining in Bosnian Serb-controlled areas continue without respite.

9. Government and Bosnian Croat forces also are guilty of serious abuses, but their crimes do not appear to reach the level of genocide in Bosnia and Herzegovina. Despite recent improvements in human rights practices by Bosnian Croat and Government troops, both are guilty of serious abuses of human rights and humanitarian law, most of which took place in 1992 and 1993. Both Government and Bosnian Croat forces are guilty of summary executions and mistreatment in detention. The Bosnian Croat authorities and their militia perpetrated systematic abuses, primarily against Muslims in the Mostar and Capljina areas in 1993. Abuses by the Bosnian Croats against Serbs also took place, primarily in 1992. Those responsible for many abuses have generally not been held accountable for their crimes. Abuses continue in Bosnian Croat-held territory, albeit on a much smaller scale than in 1993. Most of the abuses perpetrated by Government forces have been committed by individuals and do not appear to be part of a premeditated plan of the Government. The Government has taken modest steps to enforce discipline among its troops but many have not been held accountable for their abuses. Abuses against Serbian prisoners in Government military prisons and disarmed combatants are sometimes still reported.

Recommendations

10. Human Rights Watch calls on the United Nations Commission on Human Rights to:

(a) Press international negotiators to ensure that human rights concerns are addressed during peace negotiations with all parties to the conflict in Bosnia and Herzegovina, particularly with the Bosnian Serb authorities, who must cease and prevent further "ethnic cleansing" in territory under their control;

(b) Urge Member States to support the work of the United Nations Protection Force (UNPROFOR) in the Muslim-Croat federation and of the European Union in Mostar. Also, Member States should encourage the Governments of Bosnia and Herzegovina and Croatia and the Bosnian Croat authorities to respect human rights in areas under their control, to hold accountable those members of their respective forces responsible for war crimes and other human rights abuses and ensure the full implementation of the federation's human rights mechanisms;

(c) Press Member States to support politically and financially the work of the International Tribunal established by the United Nations to adjudicate war crimes and crimes against humanity in the former Yugoslavia;

(d) Press Member States to help fund the field operations of Tadeusz Mazowiecki, the United Nations Special Rapporteur on the former Yugoslavia of the United Nations Commission on Human Rights. The work of the International Tribunal established to adjudicate war crimes and crimes against humanity in the former Yugoslavia is limited to war-related abuses; only the Special Rapporteur has the mandate to report human rights violations not related to the conflict not only in Croatia and Bosnia and Herzegovina, but also in the former Yugoslav Republic of Macedonia and the Federal Republic of Yugoslavia (Serbia and Montenegro).

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COMMISSION ON HUMAN RIGHTS
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IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE
TO COMBAT RACISM AND RACIAL DISCRIMINATION

Written statement submitted by Human Rights Watch, a
non-governmental organization in consultative status
(category II)

The Secretary-General has received the following written statement
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[28 December 1994]

Human rights abuses against Roma (Gypsies) in Eastern Europe

Statement of the problem

1. In recent years, Europe has experienced a frightening rise of anti-foreigner sentiment, racism and general hostility towards those who are different. Prejudice against the Roma minority is perhaps the most pervasive form of xenophobia in Europe. Shortly after the collapse of the communist regimes in Eastern Europe, violent attacks against Roma communities began in many European countries.

2. Private acts of xenophobic violence are deeply troubling. But of perhaps graver concern is the role often played by Governments. Police harassment and brutality against Roma are commonplace throughout Europe. In addition, there have been numerous reports in both Eastern and Western Europe of police officials who participated in attacks on other minorities or foreigners, of police who failed to protect foreigners under attack, and of State officials who took no steps to investigate and punish private citizens or public officials found to have committed abuses against these unpopular groups. Equally distressing, government representatives often fail to disassociate themselves from racist and xenophobic organizations.

3. Roma tend to be the most marginalized and impoverished minority in many European countries, and opinion polls in both Eastern and Western Europe indicate that Roma are uniformly the most hated of all minorities. It is therefore imperative for international organizations to play a more active role to ensure that the necessary steps are taken by Governments to protect Roma from mob and police violence. There is no better measure of Europe's tolerance toward those who are different than its treatment of Roma.

International law regarding discrimination against minorities

4. The International Covenant on Civil and Political Rights (ICCPR) states that "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law". The United Nations International Convention on the Elimination of All Forms of Racial Discrimination creates specific obligations for States to protect minorities from violence.

Human Rights Watch-Helsinki's experience and findings

5. HRW/Helsinki has investigated and documented human rights abuses against the Roma minority in countries throughout Eastern Europe. Most recently we have prepared an update on police violence against Roma in Bulgaria and on the problem of impunity for those who have committed acts of violence against the Roma community in Romania. Although this statement relies primarily on recent information from Bulgaria and Romania, we have documented similar abuses against Roma in numerous other countries in Europe.

6. Bulgaria. Violence against Roma in Bulgaria is often committed by police officers and private security guards. For example, on 4 August 1994, the police carried out a large-scale raid in the Roma neighbourhood of the town of Pazardzhik. As in a similar raid in the same neighbourhood in 1992, the police brutalized innocent victims and intentionally damaged the property of Roma. Lyubcho Terziev, a Roma who was arrested during the raid, died while in detention. According to the official death certificate, his death was the result of "cardiovascular insufficiency." However, persons who saw Terziev's body reported that there was evidence he had been beaten on the head and that there were burn marks on his genitals.

7. There are also a growing number of cases of mob violence against Roma in Bulgaria. In December 1993, the Roma neighbourhood of Pobeda in Burgas was attacked on several occasions. In each of the attacks, the perpetrators wore helmets and threw Molotov cocktails. On 10 January 1994, six Roma houses in

the same neighbourhood were set on fire. During that attack, a Roma teenager was also severely beaten and a four-year-old child was badly burned.

8. There is substantial evidence that Bulgarian police and prosecutors often fail to investigate acts of violence promptly and thoroughly when the victim is Roma. Prosecutors have frequently decided that there was not enough evidence to open a formal investigation in cases where Bulgarian and international human rights organizations had documented substantial evidence of police brutality and misconduct. Frequently, the testimony of Roma victims was not even taken or, if taken, was disregarded.

9. Romania. Mob violence against Roma and their inability to obtain adequate redress for such violence continue to be serious human rights concerns in Romania. HRW/Helsinki has received frequent reports of attacks by villagers on their Roma neighbours. For example, despite the arrest of two Roma teenagers who had murdered an ethnic Romanian shepherd on 26 May during a robbery in the village of Racsa in Satu Mare country, an estimated 800 to 1,000 villagers in Racsa went to the Roma quarters on 28 May, destroyed all nine houses and then set them on fire. Although three police officers arrived in the village before the last houses were torched, they did not stop the villagers.

10. In contrast to most cases, the Racsa authorities conducted a thorough investigation of the events, resulting in charges against 38 people for a number of crimes, including destruction, theft, and illegal entry into a residence. However, although all nine houses were burned down, no one was charged with the more serious crime of arson, which requires the authorities to prosecute the case even if there are no complaints from the victims. Romanian authorities have often refused to bring arson charges even when warranted by the facts, intentionally leaving open the possibility that the victims can be pressured to settle or that with enough delay they will lose interest in seeking a legal remedy for their suffering.

11. The speedy investigations and indictments in the Racsa case were exceptions to the general practices of the police and prosecutorial bodies, which ignore, delay and downplay cases of violence against Roma. Despite pressure from the international community and some assurances from the Romanian Government, very few individuals have been prosecuted for the numerous violent crimes against Roma since 1990.

12. Foot-dragging in such cases has often been blatant. For example, after 170 Roma were forced to flee a violent attack and arson in the town of Hadareni, local prosecutors reported in November 1993 that the criminal investigation had produced sufficient evidence to warrant the arrest and indictment of at least 12 individuals. The investigation was apparently ongoing with regard to others who may have also committed crimes. In May 1994, local prosecutors reiterated that the investigation was near completion and that there was ample evidence to bring charges against 15 to 17 individuals. Despite this evidence, no arrests have been made.

13. Western Europe. Incidents of racist violence against the Roma also occur in Western Europe, albeit with less frequency. For example, in 1991, in the Spanish town of Mancha Real, angry mobs sought to avenge the killing of a man

by a local Roma gang by storming the Roma neighbourhood, burning six of their houses, forcing them out of the town, and then demonstrating to keep four Roma children out of the local school. This was not an isolated incident, the presence of seven Roma children at a school in the Catalonian town of Lerida having led to a similar boycott by parents. There are also many other reports throughout Western Europe of anti-Roma violence and discrimination.

Recommendations

14. Human Rights Watch urges the United Nations Commission on Human Rights to adopt a strong programme for combating anti-Roma violence and discrimination. It also urges the Commission to require that Governments include in their periodic reports to the treaty bodies specific information on the:

(a) Steps taken to train and to require police to anticipate and prevent racially motivated violence and to respond to the violence when it cannot be avoided;

(b) Steps taken to improve police and prosecutorial methods for investigating and prosecuting cases of racially motivated violence;

(c) Steps taken to make clear that the staff of the prosecutor general and the national police is to respond with thoroughness and promptness to all cases involving violent attacks against minorities and that disciplinary measures and/or criminal sanctions will be taken against any prosecutor or police officer who is proven to have enforced the law in a discriminatory manner.

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